

No. 47.

---

IN THE  
**SUPREME COURT OF THE UNITED STATES.**

---

OCTOBER TERM, 1960.

---

LAWRENCE CALLANAN,  
Petitioner,

v.

UNITED STATES OF AMERICA.

---

On Writ of Certiorari to the United States Court of  
Appeals for the Eighth Circuit.

---

**APPENDIX TO BRIEF FOR THE PETITIONER.**

---

# INDEX.

	Page
Proceedings on the Anti-Racketeering Acts.....	1
Proceedings on the 1934 Act.....	1
S. 2248, 73d Cong., 2d Sess. (Original).....	1
S. 2248, 73d Cong., 2d Sess. (Substitute bill).....	3
Act of June 18, 1934, 48 Stat. 979.....	5
Proceedings on the 1946 Act.....	7
H. R. 672, 77th Cong., 2d Sess. &.....	7
H. R. 7067, 77th Cong., 2d Sess.....	8
89 Cong. Rec. 3162.....	12
89 Cong. Rec. 3194.....	12
89 Cong. Rec. 3201.....	12
89 Cong. Rec. 3205.....	14
89 Cong. Rec. 3207.....	15
89 Cong. Rec. 3208.....	15
89 Cong. Rec. 3223.....	15
89 Cong. Rec. 3226.....	16
89 Cong. Rec. 3228.....	16
89 Cong. Rec. 3229.....	17
91 Cong. Rec. 11845.....	20
91 Cong. Rec. 11846.....	20
91 Cong. Rec. 11901.....	20
91 Cong. Rec. 11902.....	22
91 Cong. Rec. 11916.....	22
91 Cong. Rec. 11917.....	23
Act of July 3, 1946, 60 Stat. 420.....	23
Committee Report on an act providing for punishment for conspiring to violate the counterfeiting laws.....	25

No. 47

IN THE  
**SUPREME COURT OF THE UNITED STATES.**

---

OCTOBER TERM, 1960.

---

LAWRENCE CALLANAN,  
Petitioner,

v.

UNITED STATES OF AMERICA.

---

On Writ of Certiorari to the United States Court of  
Appeals for the Eighth Circuit.

---

**APPENDIX TO BRIEF FOR THE PETITIONER.**

---

**Proceedings on the Anti-Racketeering Acts.  
Proceedings on the 1934 Act.**

The bill was introduced by Senator Copeland in the Senate on January 11, 1934 as S. 2248, 73d Congress, 2d Session, in the following form:

"That the term 'trade and commerce', as used herein, shall include trade or commerce between any States, with foreign nations, in the District of Columbia, in any Territory of the United States, between any such Territory or the District of Columbia and

any State or other Territory, and all other trade or commerce over which the United States has constitutional jurisdiction.

Sec. 2. Any person who, in connection with or in relation to any act in any way or to any degree affecting, burdening, hindering, destroying, stifling, or diverting trade or commerce or any article or commodity moving or about to move in trade or commerce—

(1) commits or threatens to commit any act of violence, intimidation, or injury to a person or property, or commits any act which is declared to be unlawful by the criminal laws of the State, district or Territory where the act is committed; or

(2) extorts or attempts to extort money or other valuable considerations; or

(3) coerces or attempts to coerce any person, firm, association, or corporation to join or not to join an association, firm, corporation, or group, or to buy or rent commodities or services from particular sources, persons, firms, or corporations, or to make payments directly or indirectly to any person, association, firm, corporation, or group except for a bona fide consideration; or

(4) coerces or attempts to coerce any person, firm, association, or corporation to do an act which such person, firm, association, or corporation has a legal right not to do or to abstain from doing an act which such person, firm, association, or corporation has a legal right to do—

shall, upon conviction thereof, be guilty of a felony and shall be punished by imprisonment from 1 to 99 years, and, in addition, by a fine which shall be at least commensurate with the amount of the unlawful gain.

Sec. 3. Any person charged with violating this act may be punished in any district in which any part of the offense has been committed by him or his associates or his conspirators."

After S. 2248 passed the Senate, the House Committee in the Judiciary substituted the following bill:

"That the term 'trade or commerce', as used herein, is defined to mean trade or commerce between any States, with foreign nations, in the District of Columbia, in any Territory of the United States, between any such Territory or the District of Columbia and any State or other Territory, and all other trade or commerce over which the United States has constitutional jurisdiction.

"Sec. 2. Any person who, in connection with or in relation to any act in any way or in any degree affecting trade or commerce or any article or commodity moving or about to move in trade or commerce—

"(a) Commits or threatens or attempts to commit an act of physical violence or physical injury to a person or to the property of another, in furtherance of a plan, purpose, or attempt to fix or increase prices, or restrict or allocate production, purchases, or sales, or suppress competition; or

"(b) Obtains or attempts to obtain, by the use of or attempt to use or threat to use force, violence, or coercion, the payment of money or other valuable considerations, or the purchase or rental of property or protective services, not including, however, the payment of wages by a bona fide employer to a bona fide employee; or

"(c) Obtains the property of another, with his consent, induced by wrongful use of force or fear, or under color of official right; or

“(d) Commits or threatens to commit an act of physical violence or physical injury to a person or property in furtherance of a plan or purpose to violate sections (b) or (c) herein; or

“(e) Conspires or acts concertedly with any other person or persons to commit any of the foregoing acts; shall, upon conviction thereof, be guilty of a felony and shall be punished by imprisonment of from 1 to 99 years, and in addition, by a fine which shall be at least commensurate with the amount of the unlawful gain.

“Sec. 3. (a) As used in this act the term ‘wrongful’ means in violation of the criminal laws of the United States or of any State or Territory.

“(b) The terms ‘property’, ‘money’ or ‘valuable considerations’ used herein shall not be deemed to include wages paid by a bona-fide employer to a bona-fide employee.

“Sec. 4. Prosecutions under this act shall be commenced only upon the express direction of the Attorney General of the United States.

“Sec. 5. If any provisions of this act or the application thereof to any person or circumstances is held invalid, the remainder of the act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

“Sec. 6. Any person charged with violating this Act may be prosecuted in any district in which any part of the offense has been committed by him or by his actual associates participating with him in the offense or by his fellow conspirators.”

On June 13, 1934, Representative Oliver offered an amendment to the committee amendment which was adopted. It substituted, in lieu of the punishment provi-

sions "from 1 to 99 years, and in addition, by a fine which shall be at least commensurate with the amount of the unlawful gain," the punishment "10 years or by a fine of \$10,000 or both." The original paragraph (a) was also stricken. This version of the bill became the Anti-racketeering Act of 1934:

**Act of June 18, 1934, 48 Stat. 979.**

**AN ACT.**

To protect trade and commerce against interference by violence, threats, coercion, or intimidation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the term "trade or commerce", as used herein, is defined to mean trade or commerce between any States, with foreign nations, in the District of Columbia, in any Territory of the United States, between any such Territory or the District of Columbia and any State or other Territory, and all other trade or commerce over which the United States has constitutional jurisdiction.

Sec. 2. Any person who, in connection with or in relation to any act in any way or in any degree affecting trade or commerce or any article or commodity moving or about to move in trade or commerce—

(a) Obtains or attempts to obtain, by the use of or attempt to use or threat to use force, violence, or coercion; the payment of money or other valuable considerations, or the purchase or rental of property or protective services, not including, however, the payment of wages by a bona fide employer to a bona fide employee; or

(b) Obtains the property of another, with his consent, induced by wrongful use of force or fear, or under color of official right; or

(c) Commits or threatens to commit an act of physical violence or physical injury to a person or property in furtherance of a plan or purpose to violate sections (a) or (b); or

(d) Conspires or acts concertedly with any other person or persons to commit any of the foregoing acts;

shall, upon conviction thereof, be guilty of a felony and shall be punished by imprisonment from 1 to 10 years or by a fine of \$10,000, or both.

Sec. 3. (a) As used in this act the term "wrongful" means in violation of the criminal laws of the United States or of any State or Territory.

(b) The terms "property", "money", or "valuable considerations" used herein shall not be deemed to include wages paid by a bona fide employer to a bona fide employee.

Sec. 4. Prosecutions under this act shall be commenced only upon the express direction of the Attorney General of the United States.

Sec. 5. If any provisions of this act or the application thereof to any person or circumstance is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Sec. 6. Any person charged with violating this act may be prosecuted in any district in which any part of the offense has been committed by him or by his actual associates participating with him in the offense or by his fellow conspirators: Provided, That no court of the United States shall construe or apply any of the provisions of this act in such manner as to impair, diminish, or in any manner affect the rights of bona



— 7 —

ful labor organizations in lawfully carrying out the legitimate objects thereof, as such rights are expressed in existing statutes of the United States.

### **Proceedings on the 1946 Act.**

On March 27, 1942 Mr. Hobbs introduced H. R. 6872, 77th Congress, 2d Session:

A Bill to Amend the Act entitled "An Act to protect trade and commerce against interference by violence, threats, coercion, or intimidation," approved June 18, 1934

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to protect trade and commerce against interference by violence, threats, coercion, or intimidation," approved June 18, 1934, known as Public, Numbered 376 of the Seventy-third Congress, be, and it is hereby, amended so that it shall read as follows:

"That the term 'trade or commerce', as used herein, is defined to mean trade or commerce between any States, with foreign nations, in the District of Columbia, in any Territory of the United States, between any such Territory or District of Columbia and any State or other Territory, and all other trade or commerce over which the United States has jurisdiction."

"Sec. 2. Any person who, in connection with or in relation to any act in any way or in any degree affecting trade or commerce or any article or commodity moving or about to move in trade or commerce—

"(a) Obtains or attempts to obtain, by the use of or attempt to use or threat to use force, violence, or coercion, money or other valuable consideration; protection or protective service, or the express or im-

plied promise thereof; or the purchase or rental of property; or

“(b) Obtains the property of another, with his consent, induced by wrongful use of force or fear, or under color of official right; or

“(c) Commits or threatens physical violence to any person or property in furtherance of a plan or purpose to violate subsections (a) or (b) of this section;

“(d) Conspires or acts concertedly with any other person or persons to violate any of the provisions of this section; shall, upon conviction thereof, be guilty of a felony and shall be punished by imprisonment of not more than 20 years or by a fine of not more than \$10,000, or both.

“Sec. 3. If any provisions of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

“Sec. 4. Any person charged with violating this Act may be prosecuted in any district in which any part of the crime has been committed by him or by his actual associates participating with him in the crime or by his fellow conspirators.”

After hearings were held before a subcommittee of the House Committee of the Judiciary, Mr. Hobbs on May 11, 1942 introduced H. R. 7067, 77th Cong., 2d Session. This bill was reported by the Committee which reduced its maximum from twenty to ten years and the bill read as follows:

A Bill to amend the Act entitled “An Act to protect trade and commerce against interference by violence, threats, coercion, or intimidation,” approved June 18, 1934

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to protect trade and commerce against interference by violence, threats, coercion, or intimidation," approved June 18, 1934 (U. S. C. 1940 edition, title 18, secs. 420a-420c), be, and it is hereby, amended to read as follows:

"Title I.

"Sec. 1. As used in this title—

"(a) The term 'commerce' means (1) commerce between any point in a State, Territory, or the District of Columbia and any point outside thereof, or between points within the same State, Territory, or the District of Columbia but through any place outside thereof, and (2) commerce within the District of Columbia or any Territory, and (3) all other commerce over which the United States has jurisdiction, and the term 'Territory' means any Territory or possession of the United States.

"(b) The term 'robbery' means the unlawful taking or obtaining of personal property, from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of any one in his company at the time of the taking or obtaining.

"(c) The term 'extortion' means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.

"Sec. 2. Whoever in any way or degree obstructs, delays, or affects commerce, or the movement of any

article or commodity in commerce, by robbery or extortion, shall be guilty of a felony.

“Sec. 3. Whoever conspires with another or with others, or acts in concert with another or with others to do anything in violation of section 2 shall be guilty of a felony.

“Sec. 4. Whoever attempts or participates in an attempt to do anything in violation of section 2 shall be guilty of a felony.

“Sec. 5. Whoever commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of section 2 shall be guilty of a felony.

“Sec. 6. Whoever violates any section of this title shall, upon conviction thereof, be punished by imprisonment for not more than ten years or by a fine of not more than \$10,000, or both.

## “Title II.

“Sec. 201. Any person or persons who shall, during the war in which the United States is now engaged, knowingly and willfully, by physical force or intimidation by threats of physical force, obstruct or retard, or aid in obstructing or retarding, or attempt to obstruct or retard, the orderly transportation of persons or property in interstate or foreign commerce, or the transportation of troops, munitions, war supplies, or mail, or the orderly make-up, movement, or disposition of any train, railway or highway vehicle, airplane, or vessel, on any railroad, street highway, airway, or waterway, or elsewhere in the United States which is engaged in transportation in interstate or foreign commerce or in the transportation of troops, munitions, war supplies, or mail, shall be deemed guilty of a felony, and upon conviction thereof

shall be subject to a fine of not more than \$10,000 or imprisonment for not more than ten years, or both such fine and imprisonment; and the President of the United States is hereby authorized, whenever in his judgment the public interest requires, to employ the armed forces of the United States to prevent or remove any such obstruction to or retardation of the passage of the mail, or the orderly transportation or movement of interstate or foreign commerce, or the transportation of troops, munitions, or war supplies in any part of the United States whether by air, motor, rail, express, water, or otherwise: Provided, That nothing in this section shall be construed to repeal, modify, or affect either section 6 or section 20 of an Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, or an Act entitled 'An Act to amend the judicial code and to define and limit the jurisdiction of the courts in equity, and for other purposes', approved March 23, 1932, or an Act entitled 'An Act to provide for the prompt disposition of disputes between carriers and their employees, and for other purposes,' approved May 20, 1926, as amended, or an Act entitled 'An Act to diminish the causes of labor disputes burdening or obstructing interstate or foreign commerce, to create a National Labor Relations Board, and for other purposes', approved July 5, 1935. For the purpose of this paragraph, the United States shall be deemed to include all Territories and possessions of the United States."

At the beginning of the 78th Congress on January 6, 1943, Mr. Hobbs introduced H. R. 653, a bill identical with the original draft of H. R. 7067 with a 20-year maximum imprisonment provision. This bill was passed by the House after debate. During the House debates the following statement relative to H. R. 653 were made:

(89 Cong. Rec. 3162.)

"Mr. Delaney: The fact of the matter is that this committee report was not unanimous. Also, in the committee it was indicated by those in favor of this legislation that the legislation is too drastic, that the \$10,000 fine and 20 years in jail is too drastic. They think a modified bill might be more in consonance with present-day thinking."

(89 Cong. Rec. 3194.)

"Mr. Fish: \* \* \* I want to refer likewise to some of the excessive penalties. The penalties in this bill in my opinion are too severe—20 years and \$10,000 fine. When we reach this section of the bill there should be very careful consideration given to reducing both the extent of the imprisonment and fines."

(89 Cong. Rec. 3201.)

"Mr. Celler: \* \* \*

"Let me call your attention to one or two items in the bill which meet with my disfavor. For example, the bill provides for a punishment of 20 years and/or a fine of \$10,000. Examine the antitrust statutes and you will find that malefactors under those statutes do not have to face a 20-year sentence. Violations of the antitrust laws are equally detrimental to the body politic and are as much a crime as extortion or robbery as contemplated by the instant bill. If the extortion or robbery is of such magnitude that it ought to be prosecuted as a felony instead of a misdemeanor, then the prosecution should be under State law. Insofar as the instant bill is concerned, it does not intend to punish extortion or robbery as such, since that would be a usurpation of State's functions. It intends to punish activities which interfere with interstate commerce.

In that respect it parallels the antitrust laws, punishment for violations of which are likewise based on interference with interstate commerce. But in the one case, where capital is involved you have the penalty of 1 year, and in the other case, where labor is involved, you have the penalty of 20 years."

. . . . .

"Mr. Springer: May I ask my distinguished colleague on the Committee on the Judiciary if it is not a fact that under the provisions of this bill the question of penalty is left entirely discretionary with the court trying the case? Under the provisions of this bill a person could be penalized to the extent of 1 year or less than 1 year or up to 20 years, all in the discretion of the court.

"Mr. Celler: Or his sentence might be suspended. I agree with the gentleman. But why do we single out labor and impose even a possible penalty of 20 years? Psychologically, that is abhorrent, to my way of thinking, especially since innocent labor acts, lawful acts, might be interdicted, especially if my amendment shall not prevail. That will be seized upon by everyone who has any opposition to the bill and will be exaggerated all out of its importance."

. . . . .

"Mr. Hancock: The gentleman is basing his entire argument on the false premise that this bill is aimed at labor. This is a bill of general application. It covers the most heinous crimes the criminal statute book contemplates. It had its origin in the activities of the Dillinger gang. All this bill does is abolish the double standard which Justice Byrnes established and makes labor responsible for crimes just as well as those who are not laborers. That is all it does."

. . . . .



(89 Cong. Rec. 3205.)

"Mr. Graham: \* \* \* One of our colleagues I believe the gentleman from New York [Mr. Celler], referred to the fact that he was appalled—I think that was the language he used—at the penalty that was imposed under the provisions of this bill. Let me read you for a moment a brief definition of robbery under the criminal code. I am quoting from the criminal code, chapter 11, section 463:

"Robbery: Whoever, by force and violence, or by putting in fear, shall feloniously take from the person or presence of another anything of value, shall be imprisoned not more than 15 years.

"That has been the law of the United States for I do not know how long, probably 125 years; and all of a sudden Members become appalled. As stated in the committee by the author of this bill, he made a compilation of the penalties for robbery in the 48 States of the Union, and by averaging those found that they average 20 years. Am I correct in that?

"Mr. Hobbs: They averaged 20 years.

\* \* \* \* \*

"Mr. Celler: Justice Byrnes in his decision stated there was no attempt on the part of Congress to interfere with the traditional activities of labor unions. We put in the Copeland Act a specific provision which favored the traditional activities of labor unions. Therefore, the original act as well as this bill is aimed at labor. It seeks to do away with the excesses and racketeering of the Dillinger type. That being the case, should not we have been more careful in providing penalties rather than put a 20-year penalty in this bill?



(89 Cong. Rec. 3207.)

"Mr. Sadowski: \* \* \* The most highly publicized antilabor bill now before Congress is the Hobbs bill. The sponsors of this bill call it an Antiracketeering Act. We all agree that racketeering should be ended and that the punishments for racketeering should be severe. However, there is already an antiracketeering statute in Federal law which is called the Antiracketeering Act of 1934.

"The trouble with the Hobbs bill is that it can be construed by the courts to prohibit and punish most of the legitimate activities of organized labor. Under its provisions a man who voted for a strike or walked the picket line would run the risk of being sentenced to a maximum of 20 years in prison or to be fined \$10,000 or both. Whatever the proponents of the proposed measure may say, the language of the Hobbs bill is so broad that it constitutes a serious menace to all that organized labor has struggled for, bled for and even died for through many decades."

(89 Cong. Rec. 3208.)

"Mr. Brehm: The gentleman from Michigan [Mr. Sadowski] in his remarks stated that any member of organized labor voting in favor of a strike or engaging in peaceful picketing could, under the Hobbs bill, be subject to a fine of \$10,000 or 20 years in the penitentiary. Upon the answer to the question, Is this correct? depends the way I will vote. I want to know if that is a true statement."

(89 Cong. Rec. 3223.)

Mr. Miller of Connecticut \* \* \*

"Can anyone justify sending a union member to prison for 20 years for committing a misdemeanor dur-

ing a labor dispute when a nonunion member, guilty of the same offense under different circumstances, would receive a fine of possibly \$25?"

(89 Cong. Rec. 3226.)

Mr. Robsion of Kentucky \* \* \*

"There is some objection to the penalties prescribed in this bill for robbery and extortion. It has gone forth to the country that the penalty is 20 years. That is not a correct statement. The penalties range from 1 hour up to 20 years, according to the offense, and fines of \$1 to \$10,000. In other words, the 20 years and the \$10,000 fine are the maximum. The court can fix any length of time of imprisonment up to 20 years or any fine up to \$10,000, or both. The court might fix the penalty at 1 hour in jail and then in an aggravated case it might fix the penalty at 20 years. It could fix a 1-cent fine or in an aggravated case a \$10,000 fine. The judge can impose a fine or imprisonment or both according to the evidence.

"In Kentucky a person may be sentenced to life imprisonment or put to death for robbery and for extortion in certain cases. The average maximum imprisonment for all the States is about 20 years.

"I am not much worried over the penalties imposed on anyone who actually commits robbery or extortion, in taking money or property or other thing of value from another person by force or violence or by putting him in fear. No individual or group should be permitted to engage in robbery or extortion in this free land of ours, even a church or association of ministers."

(89 Cong. Rec. 3228.)

"Mr. Day. Mr. Chairman, I wonder if the committee is not guilty of some inadvertence in their defini-

tion of the word 'extortion' on page 2, section (c). I ask the author of the bill to follow me closely. I read:

"The term 'extortion' means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear—

"Up to that point it would amount to duress, it is clear intimidation or extortion. Then it states:

"or under color of official right.

"I want to ask this, and if you do not mean this in the bill, then so state in the interest of clarification of the future enforcement of this act and for the benefit of the House. Inasmuch as the first section of this bill carries a penalty of 20 years and a fine of \$10,000, it is not wartime legislation, but is permanent legislation, and an amendment of the act of June 18, 1934.

"When you say that by extortion you mean getting money or property from a man with his consent or under color of official right, it would apply to an initiation fee in a labor union.

"Mr. Hobbs: Certainly not. 'Color of official right' means absence of right but pretended assertion of right."

(89 Cong. Rec. 3229.)

"Mr. Day: That is just the point. A union official might be indicted and face a 20-year sentence in a Federal penitentiary or \$10,000 fine. Not only that, but there might be great hardship to himself and his family if there should be some careless construction of this language. I think this is very important."

. . . . .

"Mr. Sumners of Texas: May I suggest to my friend that if he will examine the language carefully I believe he will conclude that it means money acquired by some

person who claims to be an officer of the law who is trying to take his money."

. . . . .

"Mr. Fish: Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

"The Clerk reads as follows:

"Amendment offered by Mr. Fish: page 3, line 13, after the word 'than', strike out 'twenty' and insert 'ten.'

"Mr. Fish: Mr. Chairman, I will only require a minute to speak on this amendment. When the bill was before the Rules Committee it seemed to me at that time that these penalties were excessive. Twenty years is just about as bad as a life sentence, and I want to give the House the opportunity to reduce it by cutting it in half. This applies to threats. A man may be sent to jail for 20 years merely for threatening extortion. Such a drastic and severe penalty takes you back to the dark ages and is not warranted or in line with the offense."

. . . . .

"Mr. Hobbs: Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York [Mr. Fish].

"Mr. Chairman, the punishment fixed in this bill is a maximum, and any punishment imposed by a judge of 1 cent or 1 hour in jail would be covered by this maximum penalty just the same. May I point out to the House again that this bill was copied substantially from the New York statute which punishes first-degree robbery by a minimum punishment of 10 years and a maximum of 30 years. We took the average of 20 as the maximum, with no minimum. I think the gentleman is amply protected in his desire for the penalty

to be reasonable and all we are doing is giving the court the right to make the punishment fit the crime."

. . . . .

"Mr. Walter: May I call the attention of the House to the fact that title 2 of the act applies to the most heinous offense conceivable, namely, interference with troop trains in time of war; and conceivably the punishment would not be adequate if there would be a violation of that title of the act."

. . . . .

"Mr. Vorys of Ohio: Does not the definition also cover third-degree robbery, which, under the New York law, carries a maximum penalty of 10 years?"

"Mr. Hobbs: I do not so understand it."

"Mr. Vorys of Ohio: That is in the New York law. Does not the present law have a maximum of 10 years?"

"Mr. Hobbs: I may say to the gentleman that in other sections of New York law that is true, but not in the section I substantially quoted."

"Mr. May: Will the gentleman yield?"

"Mr. Hobbs: I am glad to yield to the gentleman from Kentucky."

"Mr. May: The purpose of the maximum penalty in the bill, as I understand it, would be to allow room for aggravated cases?"

"Mr. Hobbs: To enable the judge, who tried the case and heard the evidence, make the punishment fit the crime."

. . . . .

On January 3, 1945, at the 79th Congress, Mr. Hobbs introduced H. R. 32, the bill which was enacted into law in 1946. This bill was identical with the amended version of H. R. 653 which the House had passed during the 78th Congress. During the House debates on H. R. 32 the following statements were made:

(91 Cong. Rec. 11845.)

"Mr. Bradley of Michigan. \* \* \*

"It provides for punishment by imprisonment for not more than 20 years or by a fine of not more than \$10,000, or both."

\* \* \* \* \*

(91 Cong. Rec. 11846.)

"Mr. Sabath: \* \* \*

"Mr. Speaker, I oppose this bill because I think it goes altogether too far. It makes a felony out of a misdemeanor and then provides for imprisonment up to 20 years and/or a fine of \$10,000 for just stopping a truck. Those provisions are altogether out of line and not really same; consequently, I am opposed to such punishment as provided in this bill."

\* \* \* \* \*

(91 Cong. Rec. 11901.)

"Mr. Celler: \* \* \*

"Attorneys familiar with the decisions of the courts on charge of 'violence' in labor relations can tell of the implications to labor in a statute worded as is the instant bill. There are courts which, in injunction cases and in disorderly conduct cases, have held name-calling or use of such terms as 'scab' to constitute 'force' or 'violence.' Whatever may be your views as to whether such name-calling should properly be considered disorderly conduct under local ordinances or statutes, it should be kept in mind that the pending bill is defining conduct which would become a felony, punishable by imprisonment up to 20 years, or by a fine of up to \$10,000, or both.

"This problem has another aspect. It is generally recognized that some, if not all, labor disputes are un-

fortunately marked by heated tempers on both sides. It is unfortunately true that in some instances in the heat of labor disputes there will be minor altercations on the picket line. There will be occasional scuffles between partisans. And truly criminal conduct which may occur in the course of these altercations and scuffles is, of course, punishable by local disorderly conduct statutes or ordinances or other local laws. Under the Hobbs bill every such altercation is automatically raised to the level of a Federal offense—a Federal felony the punishment for which may be as high as 20 years in jail or \$10,000 in fine.

“Nor is that all. Those dangers are not even limited to the persons who may take part in the strike or in the picket line and certainly not to the persons who may be actually involved in the altercations or in the name-calling or other incidents which under this bill would become felonious.

“Section 3 of this bill makes equally felonious the conduct of those who ‘conspire’ with or ‘act in concert’ with others to commit the acts which are prohibited by the bill. Now, if a strike is ‘force,’ within the meaning of the other sections of the bill, then obviously not only the strikers are guilty of felony but all those who voted for the strike at the union meeting. Indeed, all those who are members of the union may be involved, since by their membership in the organization they may be found either to have ‘conspired’ or to have ‘acted in concert’ with strikers. By the same token, all of the workers on the picket line, and, indeed, all of the members of the union, may be found to have ‘conspired’ or to have ‘acted in concert’ with the individual or individuals who may have become engaged in an altercation found to constitute a felony under the bill.”

\* \* \* \* \*



(91 Cong. Rec. 11902.)

“Mr. Celler: \* \* \*

“Further, you place penalties on these legitimate activities of labor that go up to 20 years in jail and up to \$10,000. If you look at the antitrust penalties against employers you find that they are only \$5,000 or 1 year in jail. This bill has direct relation to the antitrust laws, the Clayton Act. Examine those acts and see what you do to the malefactors in organizations like the National Manufacturers' Association and the United States Chamber of Commerce. You treat them rather gently if they are guilty of these offenses involving the antimonopoly statutes. You inflict a penalty of only \$5,000, but on the laboring man you inflict a penalty of \$10,000 or, in the alternative, 20 years in jail. If that is not a harsh and unjustifiable penalty, I would like to know what is.”

\* \* \* \* \*

(91 Cong. Rec. 11916.)

“Mr. Biemillers: \* \* \*

“We fear, for example, under the bill as it now stands, that a simple, unfortunate altercation on a picket line—and we all know that human beings are frail and when tempers are hot some trouble may develop—under such a situation you may send a man to jail for 20 years or fine him \$10,000. May I further point out, gentlemen, that that is double the penalty of the antitrust laws. The law proposed for labor is much harsher than that applied to monopolists who are guilty of restraint of trade.”

\* \* \* \* \*

7



(91 Cong. Rec. 11917.)

“Mr. Sabath: \* \* \*

“In conclusion may I call attention to the gentlemen from Iowa and a few others of the activities of the farmers when, in 1932 and several times since, they overturned hundreds of trucks bringing milk to dairies in Chicago because their demands for higher prices were refused. At that time I did not hear any demand for legislation that would provide 20-year imprisonment or \$10,000 fine for these violations as this bill does. In fact, this bill provides for such imprisonment if some person would charge that he fears that some act may be intended against him.”

**Act of July 3, 1946, 60 Stat. 420.**

#### AN ACT.

To amend the Act entitled “An Act to protect trade and commerce against interference by violence, threats, coercion, or intimidation,” approved June 18, 1934.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled “An Act to protect trade and commerce against the interference by violence, threats, coercion, or intimidation”, approved June 18, 1934 (48 Stat. 979; U. S. C., 1940 edition, title 18, secs. 420a-420e), be, and it is hereby amended to read as follows:

#### TITLE I.

Sec. 1. As used in this title—

(a) The term “commerce” means (1) commerce between any point in a State, Territory, or the District of Columbia and any point outside thereof, or between points within the same State, Territory, or the District of Columbia but through any place outside thereof, and (2) commerce

within the District of Columbia or any Territory, and (3) all other commerce over which the United States has jurisdiction; and the term "Territory" means any Territory or possession of the United States.

(b) The term "robbery" means the unlawful taking or obtaining of personal property, from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or anyone in his company at the time of the taking or obtaining.

(c) The term "extortion" means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.

Sec. 2. Whoever in any way or degree obstructs, delays, or affects commerce, or the movement of any article or commodity in commerce, by robbery or extortion, shall be guilty of a felony.

Sec. 3. Whoever conspires with another or with others, or acts in concert with another or with others to do anything in violation of section 2 shall be guilty of a felony.

Sec. 4. Whoever attempts or participates in an attempt to do anything in violation of Section 2 shall be guilty of a felony.

Sec. 5. Whoever commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of section 2 shall be guilty of a felony.

Sec. 6. Whoever violates any section of this title shall, upon conviction thereof, be punished by imprisonment for not more than twenty years or by a fine of not more than \$10,000, or both.

## TITLE II.

Nothing in this Act shall be construed to repeal, modify, or affect either section 6 or section 20 of an Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" approved October 15, 1914, or an Act entitled "An Act to amend the judicial code and to define and limit the jurisdiction of the courts in equity, and for other purposes", approved March 23, 1932, or an Act entitled "An Act to provide for the prompt disposition of disputes between carriers and their employees, and for other purposes", approved May 20, 1926, as amended, or an Act entitled "An Act to diminish the causes of labor disputes burdening or obstructing interstate or foreign commerce, to create a National Labor Relations Board, and for other purposes", approved July 5, 1935.

---

### **Committee Report on an act providing for punishment for conspiring to violate the counterfeiting laws.**

In 1944, Chapter 7 of the Criminal Code, as amended (U. S. C. 1940 edition, Title 18, Ch. 7), was amended by adding section 178 (a), which increased the punishment for conspiring to violate the counterfeiting laws. Senate Report No. 1039, 78th Cong., 2d Sess., stated in respect to that bill:

"The Committee on the Judiciary, to whom was referred the bill (S. 725) to provide for the punishment of persons conspiring to violate the laws relating to counterfeiting, and certain other laws, having considered the same, do now report the bill to the Senate favorably, without amendment, and recommend that the bill do pass.

**"General Statement.**

**"This bill would strengthen the hand of the Secret Service in dealing with ringleaders among counterfeiting criminals.**

**"The bill is explained in the following letter dated October 25, 1943:**

**"Treasury Department,  
October 25, 1943.**

**"Hon. Frederick Van Nuys,  
Chairman, Committee on the Judiciary,  
United States Senate.**

**"Dear Mr. Chairman: The attention of this Department has been called to S. 725, to provide for the punishment of persons conspiring to violate the laws relating to counterfeiting, and certain other laws, which has been referred to your committee.**

**"The proposed legislation was submitted to the Seventy-seventh Congress by the Treasury Department in letters dated May 22, 1941, addressed to the President of the Senate and the Speaker of the House of Representatives. It was introduced as S. 1799 and H. R. 4934 and was passed by the House on April 20, 1942. However, no further action was taken by the Senate before adjournment. The Department is vitally interested in the bill and would like to take this opportunity to urge favorable consideration of the legislation.**

**"The bill is designed to remedy an anomalous situation that exists under the criminal statutes relating to counterfeiting. The provisions of the Criminal Code relating to counterfeiting provide for penalties up to 15 years of imprisonment. However, the general conspiracy statute (U. S. C., title 18, sec. 88), under which**

prosecutions for conspiracy to violate the provisions of law pertaining to counterfeiting are brought, carries a maximum penalty of only 2 years. The smaller penalty for conspiracy permits criminals, who are ringleaders and against whom the substantive offense cannot be proved, to escape with a much lighter punishment than less serious offenders receive.

"The following two cases illustrate the manner in which the lighter penalty for conspiracy operates to the benefit of the ringleader of counterfeiting activities. For several years information was supplied to Secret Service agents in New York that one Joseph Esposito, alias 'Don Pepe, the Mechanic,' made and sold plates for counterfeit notes to operators of counterfeiting plants and sold large quantities of counterfeit notes to various persons. Esposito was placed under surveillance, and although it was certain that he was engaged in counterfeiting activity, it was impossible to prove such activity directly. However, in 1938, one John Palmiere, who was serving a 9-year sentence on a counterfeiting charge, furnished valuable information which resulted in the arrest of 17 persons, including Esposito. Investigation confirmed the fact that Esposito had dealt for years in large quantities of counterfeit notes and plates and had even traveled to the west coast to dispose of \$20,000 in counterfeit notes in the State of California. The substantive offense of making counterfeit notes and plates could not be proved against Esposito and on February 17, 1939, he received a sentence of only 2 years, the maximum penalty that it was possible to impose under the conspiracy statute. Presiding Judge Grover Moscowitz openly expressed regret that the conviction had not been on the substantive counts so that a more severe sentence could have been imposed. Ironically, John Palmieri, who admitted his complicity with Es-

posito and whose information made Esposito's arrest and conviction possible, received a penitentiary sentence of 9 years on a substantive counterfeiting charge, while Esposito, who was a far more dangerous offender than Palmieri, was able to escape with only a 2-year sentence due to the limitations of the existing conspiracy statute.

"Another case which demonstrates the need for the proposed legislation involved the sale of \$3,000 in counterfeit \$20 Federal Reserve notes by one Ranulfo Delgadillo to Wiley C. Bullard and Dillard L. Lane at Juarez, Mexico. Bullard and Lane were associated with five other persons in passing the notes in Texas, Louisiana and Arkansas. Secret Service agents eventually arrested the distributor, Delgadillo, and the seven persons who engaged in passing the counterfeit notes he had sold. The seven passers of the notes entered pleas of guilty to conspiracy and to the substantive count of the indictment charging them with the possessing and passing the counterfeit notes and were sentenced to prison terms ranging from 2 to 15 years each. Delgadillo, the actual source of the counterfeits, could be charged only with conspiracy, since the sale of the notes had taken place in Mexico and could not properly be the basis for his prosecution in the United States. As a result it was possible to impose a sentence of but 2 years upon him. That sentence was decidedly disproportionate to the sentences of the other defendants, particularly in regard to Lane and Bullard, who received 12 and 16 year sentences, and whose participation in the counterfeiting scheme was directly attributable to the sale of the notes by Delgadillo.

"The bill would remove the discrimination which exists in favor of the ringleaders of counterfeiting enterprises by providing that the punishment for conspiracy shall be the same as the punishment for the



violation of the specified substantive provision of the law. The enactment of the legislation would make possible the imposition of sentences upon such persons more commensurate with the magnitude of their participation in the illegal enterprises and would greatly assist the Secret Service Division of the Treasury Department in the suppression of counterfeiting. The bill follows a procedure that has already been adopted by Congress in cases involving unlawful disclosure of information affecting the national defense, or seditious or disloyal acts or words in time of war (U. S. C., title 50, sec. 34); in cases involving the transportation of stolen property in interstate commerce (U. S. C., title 18, sec. 418a); and in cases involving false representations made in connection with the operation of production credit associations and corporations, and regional and central banks for cooperatives (U. S. C., title 12, sec. 1138a (f) ).

"The Director of the Bureau of the Budget has advised that there is no objection to the Department's recommending the enactment of the legislation..

Very truly yours,

(Signed) Herbert E. Gaston,  
Acting Secretary of the Treasury."